(3)

1.

SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No. 3898 of 2005

PETITIONER:

Ratpal Ram Patel,
S/o Late Ram Prasad Patel,
Aged about 59 years,
Head Master, Government
Middle School, Silli,
Tehsil: Pali, District: Korba,
Chhattisgarh.

4243/05 Sorabh Sharma
Presentation Date dated 22/8/05

- Versus -

RESPONDENTS:

1. State of Chhattisgarh,
Through the Secretary,
Department of Tribal Welfare
Mantralaya, D.K.S. Bhawan,
Raipur, Chhattisgarh.

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2. The Commissioner,
Tribal Welfare Department,
Chhattisgarh, Raipur.

3. The Assistant Commissioner,
Tribal Welfare Department,
Collectorate, Korba,
District: Korba, Chhattisgarh.

4. Block Education Officer, Pali,
District: Korba, Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

XI-HC-22

(35)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3898/2005 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15-2-2006 Shri Sanjay K. Agrawal, counsel for the petitioner. Shri Satish Gupta, Dy. Govt. Advocate for the State. Heard. The petitioner has preferred the instant writ petition under Article 226/227 of the Constitution of India, being aggrieved by the order dated 18-8-2005 (Annexure-P/5) passed by the Assistant Commissioner, Tribal Welfare Department, Korba. Learned counsel for the petitioner submits that the petitioner is working as a Head Master and he has been attached to the office of respondent No.3/Assistant Commissioner, Tribal Welfare Department vide order dated 18-8-2005 (Annexure-P/5). He further submits that this is contrary to Annexure-P/4 dated 26-7-2005. Learned counsel also submits that the petitioner has been attached to the office of the respondent No.3/Assistant Commissioner, Tribal Welfare Department whereas there is no work of Head Master nor there is any post sanctioned for the petitioner. It is pointed out that vide order dated 31-8-2005 this Court stayed the effect and operation of order dated 18-8-2005	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(36)

आदेश पत्रक

मामला क्रमांक WP 3898/2005 **सन्** 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(Annexure-P/5). It is also pointed out that when the salary of the petitioner was not released by the respondent authorities this Court vide order dated 21-11-2005 directed the respondent No.4 to make payment of salary of the petitioner.

Learned counsel for the petitioner placed reliance upon the decision of this Court rendered in the case of ***Chunnu Tigga vs. State of Chhattisgarh & Others (W.P.No.3577 of 2004)***. Para 4 of the said decision is relevant and quoted below :

> "4. It is contended that the Chief Secretary of the State of Chhattisgarh had taken a meeting and it has been decided that no officer/employee of the State would be attached from his original place of posting. It is further contended that the General Administration Department, State of Chhattisgarh, issued a circular dated 4-6-2001 (Annexure-P/2) directing all the departments of the State not to issue any order of attachment of employees, to other places by disturbing them from their parent place of posting. It is also contended that in case such an order of attachment is passed, then it should be cancelled and the concerned employee should be posted at his original place of posting. Annexure-P/2 further contains a caution that if any person is attached, then the attachment order should be cancelled. It

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आदेश पत्रक

मामला क्रमांक WP 3898/2005 **सन्** 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

is also contented that if in future any person is attached, then disciplinary proceedings may be initiated."

Return has not been filed by the respondents.

Learned counsel appearing for the State is not in a position to dispute the aforesaid facts.

Having considered the facts and circumstances of the case, material on record and in view of the decision of this Court rendered in the case of *Chunnu Tigga* (supra), this Court is of the opinion that the attachment order dated 18-8-2005 (Annexure-P/5), issued by the Assistant Commissioner, Tribal Welfare Department, Korba, in regard to the petitioner deserves to be set aside. Accordingly, it is set aside.

In the result, the petition is allowed. Consequently, pending applications, if any, also stand disposed of.

Sd/-
Fakhruddin
Judge

Gowri

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